

111TH CONGRESS
2^D SESSION

H. R. 5934

To declare the sense of Congress that the public safety exception to the constitutional requirement for what are commonly called Miranda warnings allows for unwarned interrogation of terrorism suspects, and to amend section 3501 of title 18, United States Code, to assure the admissibility of certain confessions made by terrorism suspects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2010

Mr. SCHIFF introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To declare the sense of Congress that the public safety exception to the constitutional requirement for what are commonly called Miranda warnings allows for unwarned interrogation of terrorism suspects, and to amend section 3501 of title 18, United States Code, to assure the admissibility of certain confessions made by terrorism suspects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Questioning of Ter-
3 rorism Suspects Act of 2010”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The United States Supreme Court, in New
7 York v. Quarles, 467 U.S. 649 (1984), determined
8 that there is an exception to the constitutional re-
9 quirement for what are commonly called Miranda
10 warnings in situations posing a threat to public safe-
11 ty.

12 (2) Terrorist plots have often consisted of co-
13 ordinated attacks on multiple targets.

14 (3) Captured terrorists may be the best and
15 sometimes only source of intelligence necessary to
16 prevent pending or planned attacks.

17 (4) The initial hours and days after capture are
18 often the most valuable from an intelligence collec-
19 tion perspective. Due to the complexity of terrorist
20 plots, an extended interview may be necessary to
21 procure the information necessary to protect the
22 public from a pending or planned attack.

23 (5) Just as courts have held that the public
24 safety exception established in Quarles exists even
25 when questioning is designed solely to protect the
26 lives of police officers, the public safety exception in

1 the terrorism context is broad enough to include
2 questioning necessary to protect the lives of troops
3 on the battlefield from a pending or planned attack.

4 (6) Given the nature of international terrorism
5 investigations, it is often necessary to question cap-
6 tured terrorists overseas in cooperation with other
7 countries.

8 (7) In many cases, the full warnings set out in
9 Miranda cannot be provided to terrorism suspects in
10 foreign custody, since the rights referenced in Mi-
11 randa may not be available to the individual in that
12 particular country.

13 **SEC. 3. PUBLIC SAFETY EXCEPTION TO MIRANDA RULE IN**
14 **TERRORISM INVESTIGATIONS.**

15 It is the sense of Congress that the public safety ex-
16 ception to the constitutional requirement for what are
17 commonly called Miranda warnings allows unwarned inter-
18 rogation of terrorism suspects for as long as is necessary
19 to protect the public from pending or planned attacks
20 when a significant purpose of the interrogation is to gath-
21 er intelligence and not solely to elicit testimonial evidence.

1 **SEC. 4. ADMISSIBILITY OF CERTAIN CONFESSIONS MADE**
2 **DURING TERRORISM INVESTIGATIONS.**

3 (a) INTELLIGENCE GATHERING TO PROTECT THE
4 PUBLIC SAFETY.—Section 3501 of title 18, United States
5 Code, is amended by adding at the end the following:

6 “(f)(1)(A) In the case of an individual who is a ter-
7 rorism suspect, upon ex parte application made by the
8 Government within 6 hours immediately following the per-
9 son’s arrest or other detention, that individual may be
10 taken before a magistrate not later than 48 hours after
11 arrest or other detention and any confession made within
12 those 48 hours shall not be considered inadmissible solely
13 because the individual was not presented to a magistrate
14 earlier.

15 “(B) Such an application must contain a certification
16 by the Attorney General or the Deputy Attorney General,
17 and the Director of National Intelligence or the Principal
18 Deputy Director of National Intelligence, that—

19 “(i) the individual with respect to whom the ap-
20 plication is made is a terrorism suspect; and

21 “(ii) the individual may be able to provide intel-
22 ligence necessary to protect the public safety.

23 “(C) Upon ex parte application, the appropriate judi-
24 cial officer shall, for good cause shown and subject to such
25 conditions as that officer may prescribe, extend the time
26 limitation provided by this subsection for an additional 48

1 hours. Such application may be filed in camera and the
2 court's order shall be subject to interlocutory appeal.

3 “(2) As used in this subsection, the term ‘terrorism
4 suspect’ means a person suspected of international ter-
5 rorism or domestic terrorism as those terms are defined
6 in section 2331.”.

7 (b) OVERSEAS TERRORISM INVESTIGATIONS.—It is
8 the sense of Congress that a confession given during over-
9 seas questioning of a terrorism suspect in foreign custody
10 shall not be rendered inadmissible for failure to provide
11 Miranda warnings, if such confession was voluntarily given
12 and reliable.

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